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note, as in the principal case, the payee is not to be considered a holder in due course and therefore that the provisions of the NEGOTIABLE INSTRUMENTS ACT do not apply. *Fullerton Lumber Co.* v. *Snouffer,* 139 Iowa 176, 117 N. W. 50. Three states, Illinois, Kansas, Wisconsin, have refused to adopt §§119 and 120 in the form recommended. See BRANNAN, NEGOT. INSTR. LAW (2 Ed.) 120, 158. This law was not intended to state all the changes the law of suretyship might lead to in the law of bills and notes, and it has been contended that the law does not necessarily upset the established rules of suretyship, BRANNAN, NEGOT. INSTR. LAW (2 Ed.) 117, 26 HARV. L. REV. 596, but in view of the almost uniform interpretation of the sections under consideration and the purpose of the law as a whole, it would seem better to adopt the rule of the principal case and leave any needed alterations to legislative amendment. See 5 MICH. L. REV. 683, and 8 MICH. L. REV. 600 for a discussion of earlier cases.

BILLS AND NOTES—RIGHTS OF DONEE OF A SUNDAY NOTE.—A note was executed on Sunday in violation of the Sunday laws, but was dated on a secular day. After maturity the payee of the note gave it to his grandson, who had no notice of the illegality of its inception. In suit by him on the note, *held* the donee is entitled to recover, since as an innocent transferee he was not in pari delicto with either of the parties, and to permit the maker of the note to defeat it in the hands of an innocent holder would allow him to take advantage of his own wrong. *Gooch* v. *Gooch* (Iowa 1916), 160 N. W. 333.

The making of a note on Sunday is a violation of the laws of Iowa, *Sayre* v. *Wheeler,* 31 Iowa 112; *Pike* v. *King,* 16 Iowa 49, but such violation does not make the note void but voidable. *McIntosh* v. *Lee,* 57 Iowa 356, 10 N. W. 895; *Collins* v. *Collins,* 139 Iowa 703. Where such violation makes the note merely voidable it is held that if the note appears on its face to have been made on a secular day a holder in due course may enforce it. *Clinton Nat'l Bank* v. *Graves,* 48 Iowa 228; *Cranson* v. *Goss,* 107 Mass. 439; *Bank* v. *Thompson,* 42 N. H. 370; *Myers* v. *Kessler,* 142 Fed. 73, 74 C. C. A. 62; *Knox* v. *Clifford,* 38 Wis. 651, 20 Am. Rep. 28. And although the transfer is made after maturity, the maker has no equity against a holder for a valuable consideration without notice, for it is only against a person in equal fault that the defendant can be allowed to urge his own turpitude. *Leightman* v. *Kadetska,* 58 Iowa 676, 43 Am. Rep. 129; *Johns* v. *Bailey,* 45 Iowa 241; *Harrison* v. *Powers,* 76 Ga. 218; *Gordon* v. *Levine,* 197 Mass. 263, 83 N. E. 861; DANIELS, NEGOT. INST. §70 (note). The court in the principal case extends the doctrine and holds that since the transfer of the note by gift supported by the good, though not valuable, consideration of blood relationship passed the title of the note to the donee, and as the latter acquired his rights without notice, the rule ex turpi causa non oritur actio will not avail to protect the wrongdoer, but he will be estopped to deny the validity of the instrument against the innocent holder when he by his own act gave it such character.

COMMON LAW MARRIAGE—NECESSITY OF COHABITATION TO CONSTITUTE.—Plaintiff and defendant were married in New Jersey, without a license, by a

Justice of the Peace. After they had lived together about a week the defendant (husband) left the plaintiff, who later brought a collusive suit as a result of which the marriage was annulled. The plaintiff now seeks to have the decree of annullment set aside. *Held,* that a valid common law marriage had taken place, even though a license is required in New Jersey, and the decree of annullment was set aside. *Davidson* v. *Ream* (N. Y. 1916), 161 N. Y. Supp. 73.

Although parties are married without the license required by statute, the marriage will be valid if consummated, provided that the words of the statute do not expressly declare such a marriage void. *State* v. *Bittick,* 103 Mo. 183; *State* v. *Parker,* 106 N. C. 711; *Askew* v. *Dupree,* 30 Ga. 173; *Dumaresly* v. *Fishly,* 3 A. K. Marsh. (Ky.) 368. Many interesting questions were discussed by the court in reaching the above decision. The court said that a contract per verba de presenti is sufficient to constitute a valid common law marriage though not followed by cohabitation, and cites cases to support it. This is a disputed point. Many cases have said that the simple contract is sufficient, but the exact question has generally not been involved in the decision. The cases cited by the court in this case do not involve a decision of the exact question. In *Jackson ex dem* v. *Winne,* 7 Wend. (N. Y.) 47, there was an actual ceremonial marriage. In *Fenton* v. *Reed,* 4 Johns. 51; *Caujolle* v. *Ferrie,* 23 N. Y. 90; *Van Tuyl* v. *Van Tuyl,* 57 Barb. 235; *Davis* v. *Stouffer,* 132 Mo. App. 555; and *Bey* v. *Bey,* 83 N. J. Eq. 239, 90 Atl. 685, it appeared that there had been an actual consummation of the marriage by cohabitation after the contract of marriage per verba de presenti. In *Clayton* v. *Wardell,* 4 N. Y. 230, there had been cohabitation without a contract of marriage. In *Mathewson* v. *Phoenix Iron Foundry,* 20 Fed. 281, it does not appear whether or not cohabitation took place after the written contract of marriage. The marriage was held valid. In the cases sometimes cited to support the above proposition, *Dyer* v. *Brannock,* 66 Mo. 391; *Topper* v. *Perry,* 197 Mo. 531; *Port* v. *Port,* 70 Ill. 484; *Carey* v. *Hulett,* 66 Minn. 327, there was cohabitation either with or without a previous contract of marriage by words of present contract. *Davis* v. *Davis,* 7 Daly. (N. Y.) 308, presents the question squarely and a marriage was held to be valid, although the ceremony was not sufficient to constitute a statutory marriage, nor was it followed by cohabitation. *Herd* v. *Herd,* 69 So. 885, 14 MICH. L. REV. 260 reaches an opposite conclusion and a marriage ceremony performed after securing an invalid license and not followed by cohabitation was held not to constitute a marriage. *Ashley* v. *State,* 109 Ala. 48, also reaches the same conclusion upon similar facts.

CONSTITUTIONAL LAW—DEFRAUDING GOVERNMENT.—Accused obtained a contract from the manager of the commissary department of the Panama Railroad Company to supply said company with a certain quantity of tobacco and agreed to and did pay over to the manager one-half of the profits which he had made through the contract. Defendant was indicted under §37 of Penal Code (Act March 4, 1909, c. 321, 35 Stat. 1096, Comp. St. 1913 §10201), which provides: "If two or more persons conspire either to commit any of-